

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

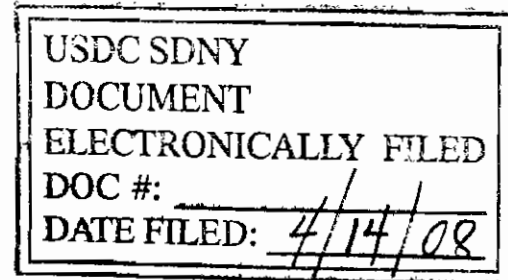
NEW YORK STATE RESTAURANT  
ASSOCIATION,

*Plaintiff,*

v.

NEW YORK CITY BOARD OF HEALTH, *ET AL.*,

*Defendants.*



No. 08 Civ. 1000 (RJH)

**ORDER CONTINUING STAY OF ENFORCEMENT**

WHEREAS, on March 27, 2008, the Court so-ordered a stipulation providing for a stay of enforcement of Section 81.50 of the New York City Health Code ("Regulation 81.50") until April 14, 2008 and providing further that Defendants may not seek any monetary fines for violation of Regulation 81.50 until Tuesday, May 27, 2008; and

WHEREAS, the Court has advised the Parties that it does not appear that it will be in a position to rule on the motion prior to April 14, 2008, but expects to be in a position to rule on the motion during the third week of April, 2008;

WHEREAS, there is presently pending before the Court Plaintiff's motion for (i) a preliminary injunction under Rule 65 of the Federal Rules of Civil Procedure, preliminary enjoining and restraining Defendants from enforcing Regulation 81.50 in violation of the First Amendment and Supremacy Clause of the United States Constitution; and (ii) a declaratory judgment under Rule 57 of the Federal Rules of Civil Procedure that Regulation 81.50 is preempted by the Nutritional Labeling and Education Act of 1990, 21 U.S.C. §§ 343, 343-a, and regulations promulgated thereunder by the Food and Drug Administration.

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

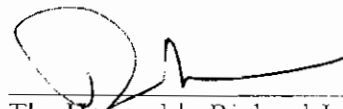
1. All enforcement (including, without limitation, issuing warning letters, notices of violation or violations, making statements on the New York City Department of Health's webpage or elsewhere indicating that restaurants or other entities are not in compliance with Regulation 81.50, or assessing fines or penalties) of Regulation 81.50 shall be stayed through and including ~~April 23~~ <sup>April 21</sup>, 2008. Nothing herein shall preclude defendants from publicly expressing their opinions about plaintiff's challenge to Regulation 81.50 so long as their public statements do not indicate that restaurants or other entities are not in compliance with the regulation.

2. Defendants may not seek any monetary fines for violation of Regulation 81.50 through and including ~~Friday, June 5~~ <sup>Tuesday, June 3</sup>, 2008.

3. This order is without prejudice to the Plaintiff's right at any time to seek further relief with respect to the period after April ~~23~~ <sup>21</sup>, 2008, or the Court's decision on the pending motions, whichever comes earlier, and Defendants' right to oppose such relief.

Dated: April 11, 2008  
New York, New York

SO ORDERED:



The Honorable Richard J. Holwell  
United States District Judge